

BEFORE THE
Federal Communications Commission

In the Matter of)	
)	
Third Periodic Review of the)	MB Docket No. 07-91
Commission's Rules and Policies)	
Affecting the Conversion)	
To Digital Television)	
)	
)	

To: The Commission

COMMENTS OF WLNY LIMITED PARTNERSHIP

WLNY Limited Partnership, licensee of digital television station WLNY-DT, channel 57, Riverhead, New York, by its attorneys, hereby submits its Comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding involving the review of the Commission's rules and policies affecting the conversion to digital television. WLNY requests that, in crafting the rules and policies governing the completion of the DTV transition, the Commission provide sufficient flexibility to accommodate a transition implementation plan, of the nature outlined below, to ensure that the transition occurs in a timely fashion.

Station WLNY-DT is an independent digital-only television station licensed to the community of Riverhead on Long Island, New York. WLNY was one of only seventeen television stations in the country whose analog channel (55) and digital channel (57) were both

located outside of the core spectrum.¹ On April 28, 2002, pursuant to special temporary authorization (“STA”), WLNY commenced digital operation on channel 57 with reduced power utilizing a side-mounted antenna (its analog antenna was mounted on the top of the tower). This reduced power facility (31 kw ERP), which was operational between April 28, 2002 and May 22, 2006, resulted in service to approximately 81.9% of the viewers served by the station’s 1997 facility on which replication coverage was based. On December 31, 2005, WLNY discontinued its analog operation and surrendered its analog channel 55 license pursuant to Commission approval of a band clearing plan.² Thereafter, at an expense of in excess of one million dollars, WLNY constructed a fully maximized DTV facility on channel 57 with an antenna placed at the area on the top of the tower vacated by its analog antenna. Maximized operation as a digital-only station commenced on May 23, 2006. WLNY was eventually assigned an in-core DTV channel (47) for post-transition operation.

WLNY has devised what it believes to be the only feasible DTV transition plan to successfully move to its new post-transition DTV channel in a timely manner by the February 17, 2009 deadline. The plan (the schedule for which may vary somewhat due to equipment delivery dates, helicopter and construction crew availability, etc.) calls for the dismanteling of WLNY’s current channel 57 digital antenna housed on the top of its tower commencing in the Fall (e.g., September) of 2008 and disconnecting its current channel 57 transmitter in that timeframe so that it can be retuned to DTV channel 47. During that period, WLNY proposes to seek an STA to reinstate its previously authorized reduced power operation on DTV channel 57 (as described in the preceding paragraph). It intends to side-mount on its tower the smaller DTV

¹ *Report and Order* in MM Docket No. 00-10 (*Establishment of a Class A Television Service*), 15 F.C.C. Rcd. 6355, 6378-6379 & n.107 (2000) (¶57); *see also Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order* in MM Docket No. 87-268, 13 F.C.C. Rcd. 7418, 7636-99 (1998)(Appendix B).

² WLNY-TV Inc. (WLNY, Riverhead, NY), 20 FCC Rcd 14765 (MB 2005).

channel 57 antenna³ and install the associated lower power DTV channel 57 transmitter (these pieces of equipment were the ones used in connection with WLNY's earlier STA operation). The early Fall start of this project is necessary to allow sufficient time to complete the project before being confronted by the perils of bad weather that frequents the northeast U.S. in the winter months immediately preceding the February 17, 2009 deadline, particularly since helicopter transport is required to remove the top-mounted channel 57 antenna and to install the new channel 47 antenna.

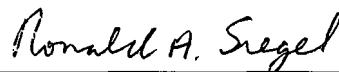
In its NPRM, the Commission recognized that "singleton stations" (stations without paired analog/digital channels such as WLNY which was authorized to discontinue analog service early) moving to new in-core channels confront more complex challenges than other stations that deserve special consideration. Stations remaining on their current in-core DTV channels or returning to their in-core analog channels post-transition had the advantage of being able to plan for the construction and operation of their post-transition DTV facilities for more than 10 years. On the other hand, stations, such as WLNY, moving to completely new in-core DTV channels did not know their DTV channel assignments until late in the game and, consequently, had a much shorter time for planning the construction and operation of their post-transition DTV facilities. Indeed, planning cannot be completed until such stations obtain construction permits for their new in-core DTV channels, but applications to secure such constructions permits can be applied for only after the Commission adopts the rules and policies contemplated by this NPRM and the release of the new DTV Table of Allocations.⁴

³ This antenna will be side-mounted at a location slightly lower than the location of the prior STA operation because that prior location is now occupied by an antenna owned by a non-related entity.

⁴ WLNY supports the Commission's proposal for expedited processing and grant of such construction permit applications, particularly under the circumstances described herein, so that affected broadcasters can proceed with their transition plans, including the ordering of antennas and other necessary equipment.

In light of the foregoing and in order to assist stations in WLNY's position, the Commission should adopt rules and policies allowing implementation of a transition plan of the nature described herein through expedited approval of an STA operation. Such action would serve the public interest by contributing to the successful completion of the transition without any countervailing meaningful adverse impact on the public. In the case of WLNY, the vast majority of television households (in excess of 90%) which currently receive WLNY's service via multi-channel video programming distributors ("MVPDs") will continue to receive the service, notwithstanding the reduced power STA operation, because WLNY delivers its signal to all such cable systems and satellite systems (DirecTV and EchoStar) by fiber optic links.⁵ Thus, the STA operation will cause no disruption or loss of service whatsoever to these MVPD subscribers. The bulk of the remaining small number of households, including all those in the heart of WLNY's service area on Long Island, that view WLNY's digital signal over-the-air will continue to receive the service since the STA operation will cover a substantial percentage of the households within WLNY's maximized DTV service area. Moreover, because of the multiplicity of television stations (analog and digital) operating in the New York market, there will be no lack of over-the-air TV service anywhere in the area pending completion of the DTV transition.

Respectively submitted



Ronald A. Siegel
COHN AND MARKS LLP
1920 N Street, N.W. Suite 300
Washington, DC 20036-1622

Counsel for WLNY Limited Partnership

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⁵ The New York DMA has an MVPD penetration (cable and satellite) in excess of 92%.